

JAN 12 2006

FACSIMILE TRANSMITTAL FORM	Application Number	10/727026
	Filing Date	December 2, 2003
	First Named Inventor	Ouderkirk, Andrew J.
	Art Unit	2879
	Examiner Name	Quarterman, Kevin J.
Fax: 571-273-8300	Attorney Docket Number	59417US002
Total Number of Pages in This Submission: 3		
Date: January 12, 2006	Attorney for Applicant: Stephen C. Jensen	

ENCLOSURES (check all that apply)		
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: OUDERKIRK, ANDREW J.
Application No.: 10/727026 Group Art Unit: 2879
Filed: December 2, 2003 Examiner: Quarterman, Kevin J.
Title: PHOSPHOR BASED LIGHT SOURCE HAVING A NON-PLANAR LONG PASS
REFLECTOR AND METHOD OF MAKING

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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<u>January 12, 2006</u>	<u>Andrea Newhouse</u>
Date	Signed by: Andrea Newhouse

Dear Sir:

Introduction

This is in response to the Office communication dated 12/12/2005. Claims 1-39 are pending. Claims 1-39 were restricted under 35 USC § 121 as follows:

- I. Claims 1-33, said to be drawn to a light source, and said to be classified in class 313, subclass 113;
- II. Claims 34-39 said to be drawn to a method of manufacturing a light source, and said to be classified in class 445, subclass 24.

Response - Election with Traverse

In response, Applicants elect Group I with traverse.

Traverse is made on the grounds set forth in the Official Gazette at 1184 OG 86 (Mar. 26, 1996), "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai*, *In re Brouwer*, and 35 USC §103(b)." In particular, rejoinder of the non-elected Group II claims is respectfully requested upon allowance of the elected Group I (light source) claims. Comparison

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of method claim 34 with light source claim 1 demonstrates the appropriateness of such rejoinder under the guidelines.

With all the recent attention on the large backlog of cases at the USPTO, it would seem more important than ever to avoid unnecessary multiplication of patent applications resulting from overly aggressive restriction practice. Despite the fact that the Examiner has identified different classifications for the Group I and Group II claims, we submit that a substantial overlap in searching and examination activities will be required, and that it would not be unduly burdensome for prosecution to proceed with both groups. On the other hand, forcing Applicants to file a divisional application directed to Group II would burden the patent system by adding another number to the backlog of US applications, and burden the present assignee by requiring payment of a separate filing fee for examination of the nonelected claims, as well as the added costs associated with prosecuting two applications and maintaining two patents.

Conclusion

Applicants have elected Group I with traverse. Continued prosecution of this application is respectfully requested.

It is believed that no fee is due; however, in the event a fee is required, please charge the fee to Deposit Account No. 13-3723. The Examiner is invited to contact the undersigned at the indicated telephone number with questions that can be resolved with a simple teleconference.

Respectfully submitted,

12 Jan 2006
Date

By: Stephen C. Jensen
Stephen C. Jensen, Reg. No.: 35,207
Telephone No.: 651-736-3369

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833

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